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company is not bound under the policy. *McKenzie v. Northwestern Mut. Life Ins. Co.* (Ga. App.), 105 S. E. 720.

An insurance company can legally make the payment of the initial premium a condition precedent to the liability of the company. *Hipp v. Fidelity Ins. Co.*, 128 Ga. 491, 57 S. E. 892, 12 L. R. A. (N. S.) 319. Incapacitating illness or insanity will not excuse failure to pay premium. *Wheeler v. Conn. Mut. Life Ins. Co.*, 82 N. Y. 543, 37 Am. Rep. 594, and note. By the better view, war between the territories in which insurer and insured reside is no excuse. *New York Life Ins. Co. v. Davis*, 95 U. S. 425. But *contra*, *Manhattan Life Ins. Co. v. Warwick*, 20 Gratt. (Va.) 614, 3 Am. Rep. 218 (note dissent); *Cohen v. New York Life Ins. Co.*, 50 N. Y. 610, 10 Am. Rep. 522.

Where payment is made a condition precedent, the first payment of a life insurance premium by a third person, without the knowledge of the insured, is of no effect. *Whiting v. Mass. Ins. Co.*, 129 Mass. 240, 37 Am. Rep. 317. And, even where payment is made with knowledge of the insured, if made when he is *in extremis* without the company having any idea of the condition of the dying man, it is of no effect. *Piedmont Life Ins. Co. v. Ewing*, 92 U. S. 377.

When the application provides that the contract shall not be complete until delivery, delivery is essential. *Bowen v. Prudential Ins. Co.*, 178 Mich. 63, 144 N. W. 543, 51 L. R. A. (N. S.) 587. When the application provides that the policy shall not take effect unless it is delivered to the insured and the first premium is paid while he is in good health, such provision is enforceable. *Metropolitan Life Ins. Co. v. Howle*, 68 Ohio St. 614, 68 N. E. 4. And this seems to be true on principle, whether or not an express stipulation to that effect is contained in the application. *Whitley v. Piedmont Life Ins. Co.*, 71 N. C. 480. Concealment of a change in health before the consummation of the insurance contract is a fraud upon the insurer. *Equitable, etc., Society v. McElroy*, 83 Fed. 631. And a change in health after application and before the policy is issued and is consummated will relieve the company from its consummation. *Southern Life Ins. Co. v. Kempton*, 56 Ga. 339; *Whitley v. Piedmont Life Ins. Co.*, *supra*.

Tender of payment is of no effect if the insurer has already declared the policy forfeited or refused to receive the premium when tendered. *MacMahon v. U. S. Life Ins. Co.*, 128 Fed. 388, 68 L. R. A. 87.

INSURANCE—WAR—LIABILITY OF INSURER UNDER AN EXEMPTION CLAUSE.—A provision in a life insurance policy exempted the insurer from liability if the insured's death should result directly or indirectly, wholly or partly, from war. The insured, a neutral passenger on board the *Lusitania*, an unarmed British merchantman, lost his life by drowning when the latter ship was torpedoed and sunk without warning and without provision being made for the safety of those on board by an ordered act of an enemy German submarine. *Held*, this constituted an act of war and the insurer was not liable. *Vanderbilt v. Travelers' Ins. Co.*, 184 N. Y. Supp. 54. See NOTES, p. 552.